93-554

Supreme Court, U.S.
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No. 93-

IN THE

Supreme Court of the United States

OCTOBER TERM, 1993

AGAPITA ROSA VELAZQUEZ, *et al.*,
Petitioners,

v.

EDNA J. FIGUEROA GOMEZ, ANGEL ROSA, JAIME TORRENS, and THE MUNICIPALITY OF LUGUILLO,
Respondents.

Petition For A Writ Of Certiorari To The United States Court of Appeals For The First Circuit

PETITION FOR WRIT OF CERTIORARI

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September 7, 1993

PRESS OF BYRON S. ADAMS, WASHINGTON, D.C. (202) 347-8203

QUESTIONS PRESENTED

1. Whether the First Circuit's abuse of discretion standard to review the denial of equitable reinstatement under § 1983 for wholesale patronage dismissals which a jury unequivocally found violated the first amendment, defeats fundamental constitutional rights subject to strict scrutiny and frustrates the broad remedial objectives of § 1983.

LIST OF PARTIES

The petitioners are all employees of the municipal government of Luquillo, a political subdivision of the Commonwealth of Puerto Rico. They are the following: Agapita Rosa Velázquez, Aida Campos Ramos, Leocadio Campos Robles, Juan Carillo García, José Cruz Fernández, Saturnino Figueroa Mercado, María M. González Figueroa, Jesús González Rodríguez, Ruben Herrera Fragosa, Norma López Rivera, Raúl Méndez Lugo, Angel Méndez Meléndez, Jennie Navarro, Rosita Negrón Robles, Mildred Negrón Robles, Marta Padró; Rodríguez, Hilda Pérez Fuentes, Carmen Quiñonez López, Myrna Quiñonez López, Victor Ribot Ramos, José Rivera, Hiram Robles Pérez, Carmen Torres Jiménez, Ismael Velázquez de Jesus, Armando Vélez Rosa, Ivette Villanueva Mercado, Elizabeth Skerret Pérez, Maritza Ayala Morales, Antonio Calzada Gutiérrez, Isidoro Cirilo, Juan Colón, Liduvina Feliciano, Francisco Lizardi, María B. Martínez Jurado, Félix Roberto Pérez, Angel Luis Robles, Isabelita Rodríguez Solís, Carmen Tapia.

The Respondents are the defendants below: the Municipality of Luquillo, Edna J. Figueroa Gómez, Mayor of Luquillo, Angel Rosa, Personnel Director, and Jaime Torrens, Municipal Secretary.

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PETITION FOR WRIT OF CERTIORARI

Petitioners, thirty-eight (38) public employees of the Luquillo Municipality of the Commonwealth of Puerto Rico, respectfully pray that a writ of certiorari issue to review the judgment and opinion of the Court of Appeal for the First Circuit, entered in the above-entitled proceeding on June 9, 1993.

OPINIONS BELOW

The opinion of the Court of Appeals for the First Circuit in *Agapita Rosa Velázquez v. Edna J. Figu-*

eroa, Nos. 92-1715, 2155 and 2223, slip op., (1st Cir. June 9, 1993) is reported as *Velázquez v. Figueroa-Gómez*, 996 F.2d 425 (1st Cir. 1993). It is reprinted in the appendix hereto, p.1a, *infra*.

The Order of the United States District Court for the District of Puerto Rico (Schmidt-Monge, Magistrate) denying petitioners-plaintiffs equitable relief in the form of reinstatement has not been reported. It is reprinted in the appendix hereto, p.9a, *infra*. The final judgment entered by the United States District Court for the District of Puerto Rico pursuant to the jury verdict in favor of the petitioners-plaintiffs is not reported. It is reprinted in the appendix hereto, p.13a, *infra*.

JURISDICTION

Petitioners originally brought this case as a civil rights action under 42 U.S.C. § 1983 in the federal court in the District of Puerto Rico. On March 6, 1992, a jury rendered a verdict in favor of all 38 petitioners. On April 30, 1992, however, the district court denied plaintiffs' request for injunctive relief in the form of reinstatement to the positions from which they were discharged. Defendants' appealed the jury verdict to the Court of Appeals for the First Circuit. Petitioners appealed the denial of the reinstatement remedy.

On June 9, 1993, the First Circuit issued an opinion and order affirming both the jury verdict and the denial of injunctive relief. No petition for rehearing was sought.

The jurisdiction of this Court to review the judgment of the First Circuit is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONST. amend I, provides:

> Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for redress of grievances.

42 U.S.C. § 1983, provides:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or territory or the District of Columbia, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any right, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For purposes of this section, any Act of Congress applicable to the District if Colombia shall be considered to be a statute of the District of Columbia.

STATEMENT OF THE CASE

Petitioners are 38 employees of the Municipality of Luquillo of the Commonwealth of Puerto Rico who in 1990 filed a civil rights action under § 1983 alleging that they had been dismissed from their public employment because of their political affiliation to the Popular Democratic Party (PDP) in violation of their freedom of expression and of association under the first amendment of the United States Constitution.

None of the petitioners occupied positions for which political affiliation was an appropriate requirement for its effective performance. *Branti v. Finkel*, 445 U.S. 507 (1980)(the first amendment protects public employees from patronage dismissal unless political affiliation is an appropriate requirement for the position).

The respondents are the Municipality of Luquillo, and the Mayor, Personnel Director and Secretary of the Municipality of Luquillo, sued in their individual and official capacities.

The complaint alleges that after the 1988 general elections in Puerto Rico, defendant Edna J. Figueroa Gómez, the mayoral candidate for the New Progressive Party (NPP) defeated the incumbent Popular Democratic Party (PDP) mayor. In broad terms, the NPP favors statehood for Puerto Rico, while the PDP favors the existing Commonwealth status. The new NPP mayor, together with the remaining respondents, then proceeded to terminate the employment of petitioners, all members of the Popular Democratic Party, and to substitute them with members of the NPP. The complaint further asserts that respondents' justification for the discharges—that petitioners' appointments were void for being contrary to the laws of Puerto Rico—was pretextual and that petitioners would have not been dismissed but for their political affiliation to the PDP. Finally, the complaint prays for the remedies of reinstatement, compensatory and punitive damages, backpay, interest and attorneys fees.

By mutual consent, the case was tried before a magistrate. After a nine-day trial, the jury reached a verdict finding that respondents had violated the

first amendment rights of all thirty-eight (38) petitioners. With respect to twenty-seven (27) of the petitioners, the jury awarded compensatory damages in the amount of $653,900.53, and punitive damages against each individual defendant in amounts ranging from $925.00 to $2,700.00. With respect to the remaining eleven petitioners (11), the jury found a first amendment violation, but did not award compensatory or punitive damages. Judgment issued on March 6, 1992. Since the judgment entered on March 6, 1992 was not clear with respect to the municipality's liability, the First Circuit ordered the district court to issue a clearer judgment, which issued on August 3, 1992, as a Final Judgment.

On March 27, 1992, petitioners filed a Petition for Reinstatement as Remedy, requesting that the district court reinstate them to the positions they occupied at the Municipality of Luquillo prior to their termination. Through order of April 30, 1993, the district court denied the request for reinstatement. This is the order that gave rise to petitioners' appeal before the First Circuit and to the application for a writ of certiorari in the case at bar.

In its order, the district court enunciated the principle that the "courts in general consider reinstatement a disfavored remedy," citing the First Circuit's decision in *Hiraldo Cancel v. Aponte*, 925 F.2d 10, 14 (1st Cir. 1991).

The district court classified the petitioners into five type of employees: (a) eleven (11) transitory or contractual employees; (b) twelve (12) aged, pensioned or disabled employees; (c) seven (7) who were then working in other employment; (d) a plaintiff for whom the court claimed that the position did not exist at the

municipality; and (e) all the plaintiffs, converted into career municipal employees through a municipal ordinance which the district court believed to be contrary to state law.

With respect to the first group, the court stated that there were eleven (11) transitory employee and one (1) contract employee who "do not have reinstatement rights as a matter of law since their appointments or contracts extended only for the period indicated at the time of appointments or in the contracts." App. at 9a. The court does not discuss whether other similarly situated employees belonging to the NPP were also terminated and their contracts not renewed or whether petitioners' substitutes belonging to the NPP were also named for fixed appointments.

With respect to the second group, the court proceeded to disqualify twelve (12) petitioners "who occupied regular positions, but who are either sixty (60) years old or over, pensioned from the Federal Social Security, or disabled." A typical entry simply reads: "María B. Martínez Jurado—60 years old." App. at 10a.

The third group of seven (7) plaintiffs were denied reinstatement simply because they "are working at present." App. at 10a. The court does not discuss that these petitioners were under a duty to mitigate damages or whether they would prefer their prior position if provided the opportunity.

One plaintiff was denied reinstatement to his prior position as tourism development director "because that position does not exist in the Specifications and Classification plan of the Municipal Government of Luquillo." App. at 10a. The court does not discuss

whether there were same or similar level positions for which this petitioner was qualified.

The denial to the other six (6) petitioners is not accounted for, other that they were allegedly unlawfully appointed and did not request a preliminary injunction when the complaint was filed.

With respect to the alleged unlawful appointment, the magistrate noted that the petitioners were converted from transitory employees through a municipal ordinance that, according to the court, violate the Municipal law and the Personnel law the Commonwealth of Puerto Rico.

On appeal, the First Circuit readily affirmed both the jury verdict and the order denying reinstatement. In upholding the jury verdict, the First Circuit found that the evidence showed that all petitioners were members of the PDP; that all respondents were members of the NPP; that many of the petitioners were politically active for the PDP during the 1988 campaign which brought the NPP to power; that respondents knew of petitioners political affiliation prior to termination; and that petitioners' position in the municipal government were filled with members of the NPP after petitioners' termination. Apx., p. 6.

With respect to the lower court order denying reinstatement, the court recognized that reinstatement is one of the remedies available for a political discharge in violation of the first amendment. It held, however, that it was an equitable remedy within the discretion of the district court and subject to the abuse of discretion standard upon review. In the words of the First Circuit:

> As reinstatement is an equitable remedy, we have stressed that its flexible application "seems particularly desirable in cases involving important private rights and public institutions" such as those involving political discrimination. *Rosario Torres v. Hernández Colón*, 889 F.2d 314, 320-21 (1st Cir. 1989). We have rejected the notion that finding a violation of first amendment rights leads *a fortiori* to reinstatement, and recognized that the application of the remedy lies within the district court's discretion. *Id.* at 321-22. The court must apply that discretion on a case by case basis with a keen eye to many factors in the balance.

The factors identified by the First Circuit in determining the appropriateness of reinstatement are as follows: (1) the strength of the evidence proving the first amendment violation; (2) whether the discharged employee had found comparable work; (3) the absence of a property right in the position because the employee was hired in violation of local law; and (4) the ineligibility of the employee for the position, due to failure to meet established qualifications, which would permit discharge for no reason or for any permissible reason. *Hiraldo Cancel v. Aponte*, 925 F.2d 10, 13-14 (1st Cir.), *cert. denied*, 112 S.Ct. 637 (1991); *Rosario Torres*, 889 F.2d at 322-24. According to the First Circuit, although ineligibility for appointment neither suspends their first amendment rights nor undercuts their relief under § 1983, it weighs against reinstatement "if a reappointee would be immediately discharged." 996 F.2d at 429.

The First Circuit found no abuse of discretion, given that the "scant evidence supporting the first amendment claims, the amount of the damage awards, and

the fact that these employees were hired illegally in violation of Puerto Rico's personnel laws provided sufficient justification for denying reinstatement." *Id.*

REASONS FOR ISSUANCE OF THE WRIT

I. The First Circuit's decision raises important and unresolved first amendment and § 1983 questions, in that the abuse of discretion review of the denial of equitable reinstatement under § 1983 for a first amendment violation, defeats a fundamental constitutional right subject to strict scrutiny and frustrates the broad remedial objectives of § 1983.

In the instant case, the First Circuit restated its position initially enunciated in *Rosario Torres v. Hernández Colón*, 889 F.2d 314, 320-24 (1st Cir. 1989)(en banc) that the grant or denial of reinstatement under § 1983 for a first amendment violation lies within the district court's discretion. According to the court, "we have rejected the notion that finding a violation of first amendment rights leads *a fortiori* to reinstatement, and recognized that the application of the remedy lies within the district court's discretion." 996 F.2d at 428.

The First Circuit decision, however, both in the instant case and in *Rosario Torres*, fails to discuss either the first amendment nature of the violation at issue or the statutory objective of § 1983 equitable remedies. Instead, the court of appeals simply applied general equitable considerations that, in the context of a § 1983 action for first amendment violation, defeat the constitutional right at stake and frustrate the broad remedy provided by § 1983 for violations of constitutionally protected rights.

In *Elrod v. Burns*, 427 U.S. 347 (1976) and *Branti v. Finkel*, 445 U.S. 507 (1980), this Court decided that the first amendment forbids government officials from engaging in the patronage practice of discharging public employees solely for not supporting the political party in power, unless party affiliation is an appropriate requirement for the position involved. In *Rutan v. Republican Party*, 497 U.S. 62 (1990), the Court extended this provision to related patronage practices, such as promotion, transfer, recall and hiring decisions. According to this Court, "political beliefs and association constitute the core of those activities protected by the First Amendment." *Elrod*, 427 U.S., at 356 (plurality). Patronage dismissals "can result in the entrenchment of one or a few parties to the exclusion of others" and "is a very effective impediment to the associational and speech freedoms which are essential to a meaningful system of democratic government." 427 U.S., at 368-370.

In *Elrod* this Court adopted a strict scrutiny standard for determining whether a political patronage practice passes constitutional muster. The Court required that in order to justify the infringement of first amendment rights, it must be shown that the patronage practice "must further some vital government end by a means that is least restrictive of freedom of belief and association in achieving that end, and the benefit gained must outweigh the loss of constitutionally protected rights." *Elrod*, 427 U.S., at 362-63; *see Rutan*, 497 U.S., at 69-70. As a rule, patronage dismissal are not the least restrictive means for fostering a governmental interest in loyalty to government programs, effective and efficient employees or in preserving the democratic process. The gov-

ernment can meet its need for political loyal employees to implement its policies by the less intrusive means of dismissing, on political grounds, only those employees whose political affiliation is an appropriate requirement for the effective performance of their position. *Branti*, 445 U.S., at 518. Similarly, the government can ensure employee effectiveness and efficiency through the less drastic means of discharging employees whose work is inadequate. *Elrod*, 427 U.S., at 365-66. Finally, patronage dismissal are not the least restrictive alternative for achieving the contribution they may make to the democratic process.427 U.S., at 369.

In the instant case, a jury found that all 38 plaintiffs had been discharged from their public employment because of their political affiliation. It is undisputed that these public employees are low-level municipal employees that did not occupy positions for which political affiliation is an appropriate requirement. The defendants raised the defense under *Mt. Healthy City School District Bd. of Educ. v. Doyle*, 429 U.S. 274, 285-87 (1977) that defendants would have been terminated or their contracts not renewed regardless of their political affiliation because they had not been hired according to regulation. The jury, however, found otherwise. When legal and equitable actions are tried together, the right to a jury trial encompasses the issues common to both; thus, the district judge is bound by the jury determination of the legal claim as it affects his disposition of the accompanying claim for equitable relief. *Lincoln v. Board of Regents of University System*, 697 F.2d 928, 934 (11th Cir.), *reh'g. denied*, 705 F.2d 471, *cert. denied*, 464 U.S. 826 (1983); *Dairy Queen, Inc. v. Wood*, 369 U.S. 469

(1962); *Bacon Theaters v. Westover*, 359 U.S. 500 (1959).

The reasons asserted by the district court for denying equitable reinstatement would not have met constitutional muster if asserted by the municipality for discharging plaintiffs. In the first place, neither the district court nor the court of appeals addressed whether *any* state interest, vital or non-vital, would be served or affected by the denial of reinstatement. In the absence of any state interest at stake, there is no counterbalance weighing against reinstatement as the make-whole remedy for a first amendment violation.

Second, the reasons advanced by the district court for not awarding reinstatement are, for the most part, contrary to the law of the land. The denial of reinstatement to transitory or contract employees with fixed-period appointments is inconsistent with *Perry v. Sindermann*, 408 U.S. 593 (1972), where the Court held that the state's refusal to renew a teacher's contract because of protected speech violated the first amendment. In this case, plaintiffs contracts had been regularly renewed from at least 1985 onwards. Similarly, in this day and age, the denial of reinstatement to twelve (12) petitioners occupying career positions simply because they were over sixty (60) years of age, disabled and/or social security recipients conflicts with the Congressional intent embodied in federal legislation proscribing age or handicap disability, such as the Age Discrimination in Employment Act (ADEA), 29 U.S.C. 621 *et seq.*, the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the Americans with Disabilities Act of 1990, Public Law No. 101-336. Likewise, the denial of reinstatement to seven (7) petitioners be-

cause they had found other employment penalizes them for their duty to mitigate damages.

Finally, the denial of reinstatement because the petitioners were appointed contrary to state law, is part of respondents *Mt. Healthy* defense that the jury found unpersuasive. The jury, for example, could have reasoned that other similarly situated NPP employees were not discharged or that petitioners' replacement were named in a similarly unlawful manner. Under these circumstances, the magistrate should have ordered the petitioners reinstated, granted them the option of accepting or declining the reinstatement award, placed on the respondents the burden of initiating proceedings for destitution that comply with constitutional and statutory requirements, and allowed the petitioners to compete on an equal footing for any position declared vacant because it was filled in a manner contrary to state law. As it is, eleven petitioners for whom the jury found a first amendment violation were left without a remedy at all, legal or equitable; twenty-seven other petitioners were left without an equitable remedy, even though the jury found that respondents had acted in reckless disregard of their constitutional and awarded punitive damages.

It is clear, furthermore, that although the unlawful appointment may leave petitioners bereft of a property right to continued employment, it is immaterial for purposes of determining a first amendment violation. Thus, in *Perry*, 408 U.S., at 593, the Court held that the "respondent's lack of a contractual or tenure 'right' to re-employment for 1969-1970 is immaterial to his free speech claim." Similarly, in *Branti*, 445 U.S., at 512 n.6, the Court stated: "After

Elrod, it is clear that the lack of reasonable expectation of continued employment is not sufficient to justify a dismissal based solely on an employee's private political beliefs." *Cf. Roure v. Hernández Colón*, 824 F.2d 139, 141 (1st Cir. 1987)(unlawful appointment under state law does not establish that defendants are entitled to qualified immunity with respect to plaintiff's first amendment claim").

By withholding equitable reinstatement, the district court is reversing the jury's disavowal of the *Mt. Healthy* defense, validating respondents' claim that petitioners were converted into career employees by a municipal ordinance allegedly contrary to state law, and enforcing the purported supremacy of said state law over a municipal ordinance. In a first amendment context, this result not only displaces the jury's liability determination but invades the province of the state's judiciary by adjudicating and enforcing on behalf of respondents their construction of the state law override of the municipal ordinance as applied to petitioners. This result is incongruous with *Pennhurst State School & Hospital v. Halderman*, 465 U.S. 89 (1984), which held that the eleventh amendment bars a federal court from issuing injunctions against state officials based on state law, and would seem to also prohibit the issuance of an injunction *on behalf* of state officials against petitioners based on the purported compliance with state law. In sum, respondents' state law defense would defeat petitioners' right to a make-whole remedy for the first amendment violation.

By reviewing the district court denial of equitable reinstatement relief only for abuse of discretion, the First Circuit standard allows for the facile defeat of

petitioners constitutional rights under the first amendment and their right to equitable relief under § 1983. It is true that "equity eschews mechanical rules . . . [and] depends on flexibility." *Holberg v. Armbrecht*, 327 U.S. 392 (1946). But in determining the scope and nature of the equitable relief provided by a particular statute, the courts will examine "the language, history and structure of the legislation under review." *TVA v. Hill*, 437 U.S. 153, 174 (1978). In *TVA*, this Court held that although as a general matters all or almost all equitable remedies are discretionary, Congress can displace traditional equitable considerations in favor of a given statutory objective. There, the Court found that in enacting the Endangered Species Act of 1973, 16 U.S.C. § 1531 *et seq.*, Congress afforded endangered species the highest priorities thus altering the balance of traditional equitable consideration in favor of their protection. *Cf. Weinberger v. Romero-Barcelo*, 456 U.S. 305 (1982)(The legislative history of the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*, does not indicate that Congress intended to deny courts their traditional equitable discretion).

The debate of § 1 of the Civil Rights Act of 1871, which became our 42 U.S.C. § 1983, although parse, clearly expresses that "Congress, in enacting § 1, intended to give a broad remedy for violations of federally protected civil rights." *Monell v. New York City Dept. of Social Services*, 436 U.S. 658, 685 (1978). As stated by Senator Edmunds, in the legislative debate, "[Section 1 is] so very simple and really reenacting the Constitution." *Id.* The legislative history, via Representative Shellabarger, describes how the courts should interpret § 1:

> The act is remedial, and in aid of the preservation of human liberty and human rights. All statutes and constitutional provisions authorizing such statutes are liberally and beneficently construed. It would be most strange and, incivilized law, monstrous were this not the rule of interpretation.

Monell, 436 U.S., at 684.

In sum, when the Constitution itself provides petitioners with the paramount first amendment rights which the jury found respondents violated, and Congress specially enacted in § 1983 a statutory remedy at law and in equity to further said transcendent constitutional rights, a regime of equitable discretion exercised without regards to vital state ends or least restrictive means allows for the defeat of the "core of those activities protected by the First Amendment" embodied in the freedom of belief and association. *Elrod, supra*, 427 U.S., at 356. The right to associate with the political party of one's choice is an integral part of this basic constitutional freedom. Patronage dismissal unquestionably attempt against this freedom, for "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Id.*, 427 U.S., at 373. The chilling effect of that injury "cannot be adequately addressed after the fact." *Romero Feliciano v. Torres Gaztambide*, 836 F.2d 1, 4 (1st Cir. 1987). By adopting an abuse of discretion standard that fails to make whole a public employee for the exercise of her freedom of belief and association, the First Circuit abets by indirection the governmental ordainment of belief and association proscribed by the Constitution and sidesteps the strict scrutiny mandated for the denial

of first amendment rights. This, with all respect, is a "monstrous" interpretation of the remedial objectives of § 1983.

II. The First Circuit's "discretionary" reinstatement rule, which reviews under an abuse of discretion standard the district judge's refusal to order equitable reinstatement under § 1983 after the jury found that 38 municipal employees had been discharged because of political patronage in violation of the first amendment, conflicts with the "presumptive" reinstatement rule of the Fifth, Sixth and Eleven Circuits which reconciles the strict scrutiny standard for the review of first amendment deprivations with the broad remedial objectives of § 1983

The First Circuit's abuse of discretion standard for reviewing denial of injunctive relief under § 1983 for violations of petitioners first amendment rights is in conflict with the "presumptive" reinstatement rule of the Fifth, Sixth and Eleventh Circuits.

The Fifth Circuit, in *Professional Association of College Educators v. El Paso County Community College district*, 730 F.2d 258, 268 (5th Cir. 1984)(hereinafter "PACE"), read *Mt. Healthy*, *supra*, for the proposition that once a plaintiff establishes that his discharge resulted from constitutionally impermissible motives, he is presumed to be entitled to reinstatement. There, the Fifth Circuit emphasized that "the court should deny reinstatement in a first amendment case on the basis of equity only in extraordinary circumstances." *Id.*, 730 F.2d at 269.

In *Allen v. Autaga County Bd. of Education*, 685 F.2d 1302 (11th Cir. 1982), non-tenured public school teachers brought a civil rights action under § 1983, alleging that the sole reason for the non-renewal of

their employment contract was their participation in conduct protected by the first amendment. A jury found for plaintiffs' constitutional claim, but the district court denied equitable reinstatement. The Eleventh Circuit vacated the district court's denial of injunctive relief, establishing a rule of presumptive reinstatement, except in extraordinary circumstances.

The Sixth Circuit has followed the lead of the Eleventh Circuit in *Allen* in holding that, reinstatement is a presumptive remedy that should be denied only in extraordinary circumstances. *In re Lewis*, 845 F.2d 624, 630 (6th Cir. 1988). The presumptive reinstatement rule has been applied in the context of a first amendment claim alleging wrongful discharge. *Basks v. Burkich*, 788 F.2d 1161, 1164 (6th Cir. 1986)(following *PACE*).

The presumptive reinstatement rule espoused by the Fifth, Sixth and Eleventh Circuits reconciles the strict scrutiny required for the review of governmental burdens on first amendment claims with the broad remedial objectives of § 1983 equitable relief. A discretionary reinstatement rule subject to an abuse of discretion standard is inappropriate for first amendment civil rights actions because it permits the make whole remedies of § 1983 to be defeated by ordinary factors. It leads to the ominous statement by the district court, not expressly disavowed by the First Circuit, that in § 1983 first amendment cases "reinstatement is a disfavored remedy." By subjecting fundamental constitutional rights to discretionary remedies, the district court, with the endorsement of the First Circuit, has effectuated an erosion of first amendment rights barred to the government directly. In a reversal of its historical aims, the lower court

has used § 1983 to dilute the first amendment rights of We the People.

The importance of this issue and the existing conflicts between circuits call for this Court to presently address and clarify the questions presented.

CONCLUSION

The rights granted by the first amendment of the Constitution are perhaps the most important constitutional right that a free people enjoy. It is for these reasons that the government cannot infringe first amendment right absent a compelling state interest and least restrictive means. Congress enacted the Civil Rights Act of 1871 to guarantee a remedy at law and in equity for the violation of these rights. The First Circuit's abuse of discretion standard for the review of a denial of equitable reinstatement following a finding by the jury of political patronage dismissal in violation of the first amendment, unwittingly frustrates the broad remedial purpose of § 1983 and the paramount value of the first amendment by too facile allowing the denial of redress for violations of fundamental rights. The abuse of discretion standard for examining the propriety of first amendment redress is asymmetrical with the strict scrutiny standard for evaluating a first amendment deprivation. It allows persons unequivocally discriminated because of their first amendment beliefs to too easily suffer less than make-whole redress; that is, it permits state officials to reap the fruits of their unlawfulness. In contrast, the presumptive reinstatement standard of the Fifth, Sixth and Eleventh Circuit reconciles the importance of the first amendment with the broad remedial pur-

pose of § 1983, without sacrificing absolutely the flexible nature of equitable relief.

Because the issue presented by this petition go to the heart of the relationship between a first amendment violation and its remedy, and are essential to the exercise of the freedom of belief and association that constitute the core of our political liberties, it is imperative that this Court grant substantive review to this matter.

In San Juan, Puerto Rico, for Washington, D.C., this September 7, 1993.

Respectfully Submitted,

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APPENDIX

APPENDIX

A. *Velázquez v. Figueroa Gómez*, Nos. 92-1715, 92-2155, 92-2228, slip Op. (1st Cir. June 9, 1993) 1a

B. *Velázquez v. Figueroa Gómez*, Civil No. 90-1192 (RSM by Consent), Order of April 30, 1992 .. 9a

C. *Velázquez v. Figueroa Gómez*, Civil No. 90-1192 (RLA-RSM by Consent), Final Judgment 13a

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 92-1715

AGAPITA ROSA VELAZQUEZ, ET AL.,
Plaintiffs, Appellants,

v.

EDNA J. FIGUEROA-GOMEZ, ET AL.,
Defendants, Appellees.

No. 92-2155

AGAPITA ROSA VELAZQUEZ, ET AL.,
Plaintiffs, Appellees,

v.

EDNA J. FIGUEROA, ET AL.,
Defendants, Appellants.

No. 92-2223

AGAPITA ROSA VELAZQUEZ, ET AL.,
Plaintiffs, Appellants,

v.

EDNA J. FIGUEROA-GOMEZ, ET AL.,
Defendants, Appellees.

APPEALS FROM THE UNITED STATES
DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO
[Hon. Roberto Schmidt-Monge, *U.S. Magistrate Judge*]

Before Breyer, *Chief Judge*, Torruella and Cyr, *Circuit Judges*. *Eliezer Aldarondo-Ortiz*, with whom *Miguel Pagán* and *Aldarondo, López Bras, Pagán & Ortiz Ballester*, were on brief for appellants. *Zuleika Llovet*, with whom *Juan B. Soto-Balbas* and *Mercado & Soto*, were on brief for appellees.

TORRUELLA, *Circuit Judge*. In this appeals, we review the district court's denial of a Motion to Alter or Amend Judgment pursuant to Federal Rule of Civil Procedure 59(e). This is a run of the mill political discrimination case brought against appellants, Municipality of Luquillo, Puerto Rico and several officials of the Municipality, under 42 U.S.C. § 1983 for violation of appellees' First Amendment rights under the United States Constitution. The jury found that the appellants discriminates against appellees, thirty-eight former employees of the Municipality, and awarded damages in favor of twenty-seven appellees. Appellants request that we vacate the judgment of the district court entirely because the evidence was insufficient to support the jury's verdict the appellants terminated appellees because of their political affiliation. Alternatively, appellants pray that we reduce the damage awards because they are allegedly excessive. Plaintiff-appellees, in a cross-appeal, request that they be reinstated in their employment.

I

Normally, to challenge the sufficiency of the evidence on appeal, a party must move for a directed verdict at the close all the evidence and follow it by a motion for judgment notwithstanding the verdict. *See* Fed. R. Civ. P. 50 (a) & (b); *Wells Real Estate, Inc. v. Greater Lowell Board of Realtors*, 850 F.2d 803, 810 (1st Cir.), *cert. denied*, 488 U.S. 955 (1988). Motions for directed verdict and judgment n.o.v. must be made with sufficient particularity of alert the trial judge as to why the evidence is insufficient. The moving party may appeal only from the grounds stated in the motion. *Id.*; *Pstragowski v. Metro-*

politan Life Ins. Co., 553 F.2d 1, 3 (1st Cir. 1977). Since appellants failed to move for a directed verdict and judgment n.o.v., we may not consider this ground of appeals. *Wells Real Estate*, 850 F.2d at 810; *La Forest v. Autoridad de las Fuentes Fluviales*, 536 F.2d 443, 445 (1st. Cir. 1976).

However, waiver of the right to request a judgment n.o.v. does not prevent a party from moving for a new trial under Fed,. R. Civ. P. 59(a), alleging that the verdict is against the weight of the evidence. *Wells Real Estate*, 850 F.2d at 810. "[A] motion for a new trial must be made in the first instance before the trial court, particularly where the wight of the evidence is at issue" *Id.*, 850 F.2d at 811 (citing 6A James WM. Moore, *Moore's Federal Practice* § 59.15[3], at 326-27 (2d ed. 1987)). Failure to move for a new trial also waives the issue on appeal. *Id.*

In this case, appellants once again failed to make an appropriate motion for a new trial before the district court. Instead, they moved under Fed. R. Civ. P. 59(e) to set aside or amend the verdict.[1] The purpose of the motion, however, was indisputably to challenge the verdict as against the weight of the evidence. While we do not condone lax, self-styled motions, or disregard of the Rules, our examination of the character of a motion is functional: "nomenclature should not be exalted over substance." Echevarría-González v. González-Chapel, 849 F.2d 24, 26 (1st

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[1] Courts have interpreted Rule 59(e) to allow a motion to vacate a judgment entirely, rather than just alter it. *See* 11 Charles A. Wright & Arthur R. Miller, *Federal Practice and Procedure* § 817 at 111 n.31, Supp. at 39 n.31 (1973 & Supp. 1992) and cases cited therein. These courts, however, considered whether a Rule 59 (e) motion was functionally equivalent to a motion to reconsider under Rule 60, pursuant to which a district court may vacate a judgment for certain specified errors. *See, e.g., A.D. Weiss Lithograph Co. v. Illinois Adhesive Products Col.*, 705 F.2d 249, 250 (7th Cir. 1983); *Huff v. Metropolitan Life Ins. Co.*, 675 F.2d 119, 122 (6th Cir. 1982). We have found no authority supporting the proposition that a motion under Rule 59(e) may be used to reevaluate the weight of the evidence after a jury's verdict.

Cir. 1988) (quoting *Lyell Theatre Corp. v. Loews Corp.*, 682 F.2d 37, 41 (2d Cir. 1982). We therefore cannot conclude that appellants failed to raise the issue before the district court.

The district court apparently did not pay much attention to the rule under which the motion was filed, or the caption that titled appellants' plea. The magistrate judge addressed the sufficiency argument directly and denied appellants' motion because he believed that "[t]he jury received abundant testimonial and documentary evidence with which to support their conclusion of political discrimination." *Rosa-Velázquez v. Figueroa-Gómez*, No. 90-1192, slip op. at 1 (D.P.R. Apr. 15, 1992). In addition, appellees did not object to the styling of the motion and seemed to assume that sufficiency of the evidence could be assailed in a motion under Rule 59(e). Thus, while the district court ought to have reformed the challenge as one pursuant to Rule 59(a) earlier in this proceeding, we will treat the motion as one for a new trial.

The decision to grant a new trial is squarely within the trial court's discretion. *Allied Chemical Corp. v. Daiflon, Inc.*, 449 U.S. 33, 36 (1980). "Only an abuse of discretion will trigger reversal of a denial of a motion for new trial." *Wells Real Estate*, 850 F.2d at 811; *see also Conway v. Electro Switch Corp.*, 825 F.2d 593, 598 (1st Cir. 1987). Such deference to the trial court is particularly appropriate in cases in which the jury's verdict is challenged as against the weight of the evidence because "a jury's verdict on the facts should only be overturned in the most compelling circumstances." *Wells Real Estate*, 850 F.2d at 811; *Keeler v. Hewitt*, 697 F.2d 8, 11 (1st. Cir. 1982).

Moreover, the trial court's discretion is quite limited concerning motions for new trials. A trial judge may not upset the jury's verdict merely because he or she might have decided the case differently. On the contrary, a trial judge may grant a new trial only if she "believes that the

outcome is against the clear weight of the evidence such that upholding the verdict will result in a miscarriage of justice." *Conway*, 825 F.2d at 598-99; *see also Confran v. Hitchcock Clinic, Inc.*, 683 F.2d 5, 6 (1st. Cir.), *cert. denied*, 459 U.S. 1087 (1982). We assume, and we do not review for, sufficiency of the evidence. *Valm v. Hercules Fish Products, Inc.*, 701 F.2d 235 (1st Cir. 1983).

We thus review the evidence to determine whether the district court abused its discretion. The evidence showed that all the plaintiffs were members of the Popular Democratic Party ("PDP"); that all defendants were members of the New Progressive Party ("NPP"); that many of the plaintiffs were politically active for the PDP during the 1988 campaign which brought the NPP to power; that defendants knew of the plaintiffs' political affiliation prior to termination; that plaintiffs' work responsibilities were altered with the change in administration; and that plaintiffs' positions in the Municipal government were filled with members of the NPP after termination. Given this evidence, the district court did not abuse its discretion in finding the evidence sufficient to support the jury's verdict and denying appellants' motion.

II.

Appellants' second argument fails for similar reasons. Appellants urge that if the evidence is deemed sufficient, the damage awards be reduced because they are excessive. The standard of review of damage awards places an enormous burden on the party challenging the award. To begin with, the evidence is viewed in the light most favorable to the prevailing party. *See, e.g., Betancourt v. J.C.Penney Co.*, 554 F.2d 1206, 1207 (1st. Cir. 1977). In addition, it is exceedingly "difficult on the basis of an algid appellate record to quantify damages for intangible losses." *Ruiz v. González-Caraballo*, 929 F.2d 31, 34 (1st. Cir. 1991). Indeed, "[t]ranslating legal damage into money damages—especially in cases which involve few significant items of

measurable economic loss—is a matter peculiarly within a jury's ken." *Wagenmann v. Adams*, 829 F.2d 196, 215 (1st. Cir. 1987). Therefore, unless we can say that the award is "'grossly excessive,' 'inordinate,' 'shocking to the conscience of the court,' or 'so high that it would be a denial of justice to permit it to stand,'" *Segal v.Gilbert Color Systems, Inc., 746 F.2d 78, 80-81 (1st Cir. 1984) (quoting Grunenthal v. Long Island R.R. Col.*, 393 U.S. 156 & n.4 (1968)), we will not "overrule a trial judge's considered refusal to tamper with the damages assessed by a jury." *Ruiz*, 929 F.2d at 34; *see also Wagenmann*, 829 F.2d at 215. We certainly cannot say that these awards for political discrimination in employment fall outside this broad standard for acceptable jury verdicts.[2]

III.

The last issue that we must confront is whether the district court properly denied plaintiffs' request for reinstatement. This circuit has determined previously that "[o]ne of the remedies available for a political discharge in violation of First Amendment rights is reappointment." *Santiago-Negrón v. Castro-Dávila*, 865 F.2d 431, 437 (1st Cir. 1989). As reinstatement is an equitable remedy, we have stressed that its flexible application "seems particularly desirable in cases involving important private rights and public institutions" such as those involving political discrimination. *Rosario-Torres v. Hernández-Colón*, 889 F.2d 314, 320-21 (1st Cir. 1989). We have rejected the notion that finding a violation of first amendment rights leads *a fortiori* to reinstatement, and recognized that the application of the remedy lies within the district court's discretion. *Id.* at 321-22. The court must apply that discretion on a case by case basis with a keen eye to the may factors in the balance.

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[2] The jury awarded sums ranging between $14,200 and $33,500.

The trial court's discretion is not unbounded, however. In fact, we have cautioned that the incidental burdens on a public employer accompanying reinstatement—i.e., "tension (or even hostility) between parties when forcibly reunited"—are "usually insufficient, without more, to tip the scales against reinstatement when first amendment rights are at stake in a section 1983 action." *Id* at 322 (citing *Banks v. Burkich*, 788 F.2d 1161, 1165 (6th Cir. 1986)). Thus, "equitable considerations different in kind or degree from those regularly accompanying reinstatement must be present if reinstatement is to be withheld from the victim of a first amendment infraction." *Rosario-Torres*, 889 F.2d at 323.

In the past, we have indicated a number of special considerations that influence the district court determination in specific cases, including: (1) the strength of the evidence proving the first amendment violation; (2) whether the discharged employee has found comparable work; (3) the absence of a property right in the position because the employee was hired in violation of local law; and (4) the ineligibility of the employee for the position, due to failure to meet established qualifications, which would permit immediate discharge for no reason or for any permissible reason. *See Hiraldo-Cancel v. Aponte*, 925 F.2d 10, 13-14 (1st Cir.), *cert. denied*, 112 S.Ct. 637 (1991); *Rosario-Torres*, 889 F.2d at 322-24. Although ineligibility for appointment "neither suspend[s] their first amendment rights nor undercut[s] their entitlement to legal relief under section 1983," it is a factor weighing against reinstatement if a reappointee would be immediately discharged. *Hiraldo-Cancel*, 925 F.2d at 14. This list does not canvass all the relevant factors but rather highlights several that are particularly important. With these principles in mind, we review the choice of equitable remedies for abuse of discretion while recognizing that the trial court views the evidence from a better vantage point that we do on the appellate record. *Id.*

In this case the trial court denied reinstatement to all prevailing plaintiffs. The scant evidence supporting the first amendment claims, the amount of the damage awards, and the fact that these employees were hired illegally in violation of Puerto Rico's personnel laws provided sufficient justification for denying reinstatement. We readily find no abuse of discretion.

IV

In conclusion, we *affirm* the trial court's denial of the Rule 59(e) motion and plaintiffs' request for reinstatement.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

CIVIL NO. 90-1192 (RLA)
(RSM by Consent)

AGAPITA ROSA VELAZQUEZ, ET AL.,
Plaintiffs

v.

EDNA J. FIGUEROA-GOMEZ, ET AL.,
Defendants

O R D E R

The plaintiffs filed a Petition for Reinstatement (Docket 111), which was opposed by the defendants (Docket 113). The reinstatement of the plaintiffs is discretionary and not a part of the Judgment entered by this Court. The courts in general consider reinstatement a disfavored remedy. *Hiraldo-Cancel v. Aponte*, 925 F.2d 10, 14 (1st Cir. 1991).

There are eleven (11) plaintiffs who occupied a transitory position, and one (1) who was a contract employee (Liduvina Feliciano). They do not have reinstatement rights as a matter of law since their appointments or contracts extended only for the period indicated at the time of appointments or in the contracts. See *Department of Natural Resources v. Correa*, 118 D.P.R. 689, April 15, 1987.

The following were plaintiffs who occupied regular positions, but who are either sixty (60) years old or over, pensioned from the Federal Social Security, or disabled:

1. Carmen María Tapia - over 60 years old.
2. Rosita Negrón - over 60 years old.
3. José Cruz-Fernández - 63 years old and pensioned by the Social Security.

4. Marta Padró - disabled, blind, old, pensioned by the Social Security.
5. María B. Martínez-Jurado - 60 years old.
6. Jesús M. González - incapacitated by the P.R. State Insurance Fund.
7. Carmen Torres - 67 years old
8. Angel Luis Roble - 64 years old, pensioned by the Federal Social Security.
9. Félix Roberto Pérez - Social Security pensioned.
10. Agapita Rosa-Velázquez - over 60 years old.
11. Leocadio Campos - 69 years old.
12. Angel Antonio Méndez - 60 years old.

The following were plaintiffs who occupied regular positions, but who are working at the present:

1. Jenny Navarro
2. Carmen I. Quiñones-López
3. Saturnino Figueroa
4. Francisco Lizardi
5. Myrna Quiñones
6. Liduvina Feliciano
7. Maritza Ayala-Morales

Finally, plaintiff Luis R. Méndez cannot be reinstated to a position of Tourism Development Director because that position does not exist in the Specifications and Classification Plan of the Municipal Government of Luquillo.

All the plaintiffs in this case were initially appointed as transitory employees (a fact admitted in their cross examinations), and were later converted to regular employees through a Municipal Ordinance. This violates the Municipal Law and the Personnel Law. In the case of *Department of Natural Resources v. Correa*, supra, the Puerto Rico Supreme Court expressed:

> "The Public Service Personnel Act in force, 3 L.P.R.A. 1301, *et seq.*, embodies these principles and provides that '[p]ersons appointed to posi-

tions of fixed duration shall have a transitory status. *The duration of these appointments shall correspond to the period for which the position is created.*" (Emphasis supplied). 3 L.P.R.A. 1333(12).

According to the Personnel Regulations, employees with transitory appointments shall not be considered career employees, and *'no person who has received a transitory appointment can be appointed to occupy career positions with probationary of regular status unless said person has passed the recruitment and selection process established in Section 4.3 of the (Personnel) Act.* Personnel Regulations: Central Office of Personnel Administration, sec. 7.9. This is so because recruitment of transitory personnel is not governed by the regular recruitment and selection process of career employees. 'The process for the recruitment and selections of candidates for transitory appointments shall consist of an evaluation of the candidates for the sole purpose of determining if they meet the minimum requirements established for the type of position to which they will be appointed.' Personnel Regulations: Areas Essential to the Merit Principle, sec. 7.9. Since transitory employees are appointed to meet unforeseen personnel needs or emergency situations, a special procedure is used to speed up recruitment and selection of necessary personnel." (Emphasis supplied, Official Translation, pp. 3-4).

None of the prevailing plaintiffs sought preliminary injunctive relief during the years that this case awaited trial. *De Choudens v. Government Development Bank*, 801 F.2d 5 (1st Cir. 1986), cert. denied 481 U.S. 1013 (1987). A party seeking reinstatement appeals "not to the court's inclination, but to its Judgment; and its Judgment is to

be guided by sound legal principles." *Rosario Torres v. Hernández-Colón*, 889 F.2d 314, at 328 (1st Cir. 1989). "Considerations of federalism and comity weigh heavily against disbalancing the internal harmony of government in favor of reinstating the prevailing plaintiffs." *Franco-Acevedo, et al. v. José E. Aponte, et al.*, 85-2451 (RLA-CC), March 4, 1992, at pages 9-12; *Rosario Torres v. Hernández Colón*, supra. Of particular importance is the fact that the plaintiffs were converted to regular employees through a municipal ordinance in violation of the principles of the civil service merit system. The plaintiffs did not compete with other qualified candidates, there were no publications of openings, and no list of eligibles.

Wherefore, the plaintiffs' petition for reinstatement is hereby denied.

IT IS SO ORDERED.

San Juan, Puerto Rico, on this 30th day of April, 1992.

ROBERTO SCHMIDT MONGE
U.S. Magistrate Judge

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

CIVIL NO. 90-1192 (RLA-RSM)

RE: CIVIL RIGHTS DAMAGES DECLARATORY JUDGMENT INJUNCTIVE RELIEF PLAINTIFFS DEMAND A JURY TRIAL

AGAPITA ROSA VELAZQUEZ, ET AL.,
Plaintiffs

v.

EDNA J. FIGUEROA-GOMEZ, ET AL.,
Defendants

FINAL JUDGMENT

Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

IT IS ORDERED AND ADJUDGED that the following plaintiffs, although the jury found violation of their first amendments rights were committed by all four co-defendants no damages were awarded:

MARITZA AYALA-MORALES
ISIDORO CIRILO
LIDUVINA FELICIANO
MARIA R. MARTINEZ-JURADO
ANGEL LUIS ROBLES
CARMEN TAPIA
ANTONIO CALZADA-GUTIERREZ
JUAN COLON
FRANCISCO LIZARDI
FELIX ROBERTO PEREZ
ISABELITA RODRIGUEZ-SOLIS

IT IS ORDERED AND ADJUDGED that the following plaintiffs receive the following amounts and damages and prejudgment interest against defendants ANGEL ROSA, JAIME TORRENS, EDNA J. FIGUEROA-GOMEZ and the MUNICIPALITY OF LUQUILLO, joint and severally, plus

punitive or exemplary damages against defendants ANGEL ROSA, JAIME TORRENS, EDNA J. FIGUEROA-GOMEZ and the MUNICIPALITY OF LUQUILLO:

IT IS SO ORDERED.

Date _____ Clerk _____

(By) Deputy Clerk _____

Plaintiffs	Damages	Punitive and Exemplary Damages		
		Angel Rosa	Jaime Torrens	Edna J. Figueroa
AGAPITA ROSA VELAZQUEZ	$27,568.00	$50.00	50.00	100.00
AIDA CAMPOS-RAMOS	25,214.05	25.00	50.00	100.00
EOCADIO CAMPOS-ROBLES	30,462.50	25.00	50.00	100.00
JUAN CARRILLO-GARCIA	30,462.50	25.00	50.00	100.00
JOSE CRUZ-FERNANDEZ	24,200.75	25.00	50.00	100.00
SATURNINO FIGUEROA-MERCADO	18,576.75	25.00	50.00	100.00
MARIA M. GONZALEZ-FIGUEROA	25,200.75	25.00	50.00	100.00
JESUS GONZALEZ-RODRIGUEZ	28,554.65	25.00	50.00	100.00
RUBEN HERRERA-FRAGOSA	25,516.48	25.00	50.00	100.00
NORMA LOPEZ-RIVERA	33,143.65	25.00	50.00	100.00
RAUL MENDEZ-LUGO	13,964.60	25.00	50.00	100.00
ANGEL MENDEZ-MELENDEZ	22,640.65	100.00	100.00	200.00
JENNIE NAVARRO	24,845.00	25.00	25.00	50.00
ROSITA NEGRON-ROBLES	23,720.70	25.00	25.00	100.00
MILDRED NEGRON-ROBLES	29,982.45	25.00	50.00	$100.00
MARTA PADRO-RODRIGUEZ	20,302.20	25.00	50.00	100.00
HILDA PEREZ-FUENTES	19,953.30	25.00	50.00	100.00
CARMEN QUINONES-LOPEZ	24,610.75	100.00	100.00	100.00
MYRNA QUINONES-LOPEZ	19,082.40	100.00	100.00	100.00

VICTOR RIBOT-RAMOS	23,078.50	25.00	50.00	100.00
JOSE RIVERA-RIVERA	18,997.15	25.00	50.00	100.00
HIRAM ROBLES-PEREZ	20,657.60	25.00	25.00	50.00
CARMEN TORRES-JIMENEZ	22,720.00	25.00	50.00	100.00
ISMAEL VELAZQUEZ-DE JESUS	30,424.55	25.00	50.00	100.00
ARMANDO VELEZ-VEGA	24,200.75	25.00	50.00	100.00
IVETTE VILLANUEVA-MERCADO	23,577.25	25.00	50.00	100.00
ELIZABETH SKERRETT-PEREZ	28,984.40	25.00	50.00	100.00